

February 25, 2009

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TOWN OF NEW WINDSOR

PLANNING BOARD

FEBRUARY 25, 2009

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HOWARD BROWN
DANIEL GALLAGHER
HENRY SCHEIBLE

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

MYRA MASON
PLANNING BOARD SECRETARY

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: HENRY VAN LEEUWEN

REGULAR_MEETING

MR. ARGENIO: I'd like to call the February 25, 2009 meeting of the New Windsor Planning Board to order. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

MR. ARGENIO: Welcome everybody, I asked Mr. Scheible

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to come up as Mr. Van Leeuwen is not with us this evening or at least it appears he's not with us. I'm going to get right down to business here.

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MOBILE_HOME_PARK_REVIEWS:

BRITTANY_TERRACE

MR. ARGENIO: First item on tonight's agenda we have a typo on there, Brittany Terrace was tended to at the last meeting, for those of you who were not here we held it in the Supervisor's conference room because we were off date with that meeting.

NUGENT_MOBILE_HOME_PARK

Mrs. Kathleen Nugent appeared before the board for this review.

MR. ARGENIO: So the next item is the Nugent Mobile Home Park. Is somebody here to represent this? I see Mrs. Nugent in the audience. Michael, has somebody from your office been by to inspect this park?

MR. BABCOCK: Yes, they have and everything is fine there.

MR. ARGENIO: Do you have a check made out for \$100?

MR. BABCOCK: It's \$200.

MRS. NUGENT: I'm being kind, I'm giving you \$200.

MR. ARGENIO: Anybody sees fit, I'll accept a motion we approve them for one year extension for the permit.

MR. SCHLESINGER: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer one year extension for the Nugent Mobile home Park for their special use permit. Roll call.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you very much for coming in, we'll see you in a year.

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MONACO_MOBILE_HOME_PARK

MR. ARGENIO: Next is Monaco Mobile Home Park is off
the agenda.

REGULAR_ITEMS:

PATRICIA_LEVIN_SUBDIVISION_(09-06)

MR. ARGENIO: I'm going to just switch things around a little bit on this agenda here, item number 4 is Patricia Levin subdivision. This is a zoning board referral, it should be a fairly simple matter at this point in time so I'm going to bring them up to the front of the line.

Mr. William Hildreth appeared before the board for this proposal.

MR. ARGENIO: What do we have here? This plan proposes subdivision of the .95 acre parcel into two single family residential lots. The plan was reviewed on a concept basis only. Mr. Hildreth, can you tell us where we're at, what we're doing here?

MR. HILDRETH: Yes, this is on Union Avenue, corner of Union Avenue and Spruce Street, it has a little bit of frontage on Dana here, parcel consists of a little under an acre right now and an existing house is in the westerly end and proposal is to put that existing house on 18,600 and some square feet which is .43 acres.

MR. ARGENIO: Tell me where were are here, Bill.

MR. HILDRETH: Come down from Union Avenue and 32 going towards Ruscetti Park and it's on the right-hand side.

MR. ARGENIO: On the corner there?

MR. HILDRETH: Well, it's the corner of Spruce and Union.

MR. ARGENIO: So the first right would be James Street.

MR. HILDRETH: Then Dana here and then Spruce.

MR. ARGENIO: Okay, and we have one house on the corner of Dana here and the lot extends all the way to Spruce?

MR. HILDRETH: All the way, yes, the R-4 zone currently it's one acre 43,560.

MR. ARGENIO: In the R-4 zone?

MR. HILDRETH: Correct. What you have in this neighborhood is a lot of lots that are like 12,500 and, 14,000, you know, the older.

MR. ARGENIO: You would agree, Mike, this is consistent with the neighborhood that's there?

MR. BABCOCK: Yeah, I would say it is.

MR. ARGENIO: More or less?

MR. BABCOCK: Yeah, more or less, yeah.

MR. ARGENIO: See what Mark has to say, not much, you really don't have any comments here on this.

MR. EDSALL: No, I have some bulk table corrections I want to work out.

MR. HILDRETH: It's my thought here that this is going to be compliant with the exception of the square footage we're asking for.

MR. EDSALL: I believe so, I'll work out the referral with you and corrections to the bulk table but Mr. Chairman, I didn't want to bore you with those bulk number corrections at this point.

MR. ARGENIO: So what you're looking for is you're looking for a referral to the zoning board and it's to

cut this lot essentially in about half?

MR. HILDRETH: Yes, more than half is favoring the new lot, the vacant lot, the one that's to be built on--

MR. ARGENIO: I think I know exactly where this is, that's a big grass field right now, is that right?

MR. HILDRETH: Yes, it's lawn.

MR. ARGENIO: Not a lot here to look at. Any comments on this? Dan, do you have any thoughts on this?

MR. GALLAGHER: No, pretty simple.

MR. SCHEIBLE: I've passed by that place so many times in my life, I always said what a beautiful lot for a house.

MR. ARGENIO: We're going to defer any actions on SEQRA until you return from the zoning.

MR. HILDRETH: Yeah, we're going to have a public hearing.

MR. SCHLESINGER: I make a motion to refer the applicant to the zoning board, deem the application incomplete.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we determine this application incomplete which refers them to the Town of New Windsor Zoning Board.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE

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MR. SCHLESINGER AYE
MR. ARGENIO AYE

MR. ARGENIO: Mr. Hildreth, you have been referred to the zoning board, it appears that what you're proposing is consistent with the neighborhood. Good luck to you.

MR. HILDRETH: Thank you.

PUBLIC_HEARINGS:

LAPIDUS/KOCH_SUBDIVISION_(07-20)

MR. ARGENIO: First item on tonight's agenda is Lapidus/Koch subdivision. The application proposes subdivision of 1.9 plus or minus acre parcel into two single family residential lots. The plan was previously reviewed at the 25 July, 2007, 12 March, 2008 and 12 November, 2008 planning board meetings. The applicant is here before this board for a public hearing at this time. Is one of the project owners here?

Mr. Charles Brown appeared before the board for this proposal.

MR. C. BROWN: The owners, not the purchaser of one of the lots.

MR. ARGENIO: Mr. Brown, tell us what you've done and where you're going here with this first and then we'll open it up to the public, you'll have a chance to comment and then we'll take a look at it.

MR. C. BROWN: Okay, it's a 1.9 acre lot which contains existing single family residence currently served by a municipal sewer and on-site well. The property's on Lake Road right across and has frontage on Beaver Dam Lake. The propose is to cut it into two lots to create one new building lot for a single family residence which would be served by town sewer and on-site well. The driveways are set up so that they use a common entrance at Lake Road which would require an easement through the new lot for accommodating the driveway.

MR. ARGENIO: Looks like they're side by side.

MR. C. BROWN: It's a common apron but they join right before they hit the property line, you know, when they

get into the right-of-way it's a common area.

MR. ARGENIO: Okay.

MR. SCHLESINGER: Why do you need a variance for lot size?

MR. C. BROWN: Lot size and the size of the existing residence existing residence doesn't meet the 1,200, those variances were granted in October '07.

MR. SCHLESINGER: What's the second reason?

MR. C. BROWN: The lot size and the actual size of the residence in the zoning it's supposed to be 1,200 square foot minimum residence and existing house is only 584 square feet.

MR. ARGENIO: Mark, did you talk to Anthony about this at all?

MR. EDSALL: Yes.

MR. ARGENIO: Did he give you some feedback?

MR. EDSALL: Well, we did go over the driveway, the common apron and did talk about the fact that the plan, previous plan it wasn't clear they were grading back the hill but Charlie's--

MR. C. BROWN: We're moving the vegetation.

MR. EDSALL: --defined that a little bit more.

MR. ARGENIO: Anthony's okay?

MR. EDSALL: Yes, my understanding was he's okay, I explained what was proposed, I got the impression he's going to make sure of it in the field.

MR. ARGENIO: Do we need subject to Anthony being okay and I see there are some other items, looks like they have been cleaned up?

MR. C. BROWN: I do have sign-offs from the Highway Department in '07, we never changed the driveway since then.

MR. ARGENIO: What's the date on the sign-off?

MR. C. BROWN: July '07.

MR. ARGENIO: I have a comment 1/11 of '08 I'm going to read sight distance for both driveways should be checked and improved now seems to me--

MR. C. BROWN: We've done that.

MR. ARGENIO: Seems to me Mark and Anthony have spoken and are going to do some clean-up over there, you need to understand that he's going to take a look at it.

MR. C. BROWN: Certainly that's shown on sheet 2 also the grading plan shows the cut back of the hill and the removal of the vegetation that does block the sight distance.

MR. ARGENIO: And you have your variance from the zoning board?

MR. C. BROWN: Yes, again, that was in October '07 we note those underneath the bulk table.

MR. ARGENIO: You guys take a look at this, I'm going to open this up so we can get a little feedback. On the 30th day of October, 2009, Myra prepared six addressed envelopes containing the notice of public hearing pertinent to this application with the list provided to her by the Town of New Windsor assessor's office. The notices went out. At this point in time,

if there's anybody here that would like to speak for or against or comment on this application, Lapidus/Koch subdivision, please raise your hand and be recognized by the chair and be afforded the opportunity to speak.

MR. SCHLESINGER: Make motion to close the public hearing.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we close the public hearing on Lapidus/Koch subdivision, no hands shown during the public comments, I'll have a roll call.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: If anybody sees fit, I'll accept a motion that we declare a negative dec.

MR. SCHLESINGER: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare negative dec under the SEQRA process.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I do want to hit a couple things here and if anybody has any questions, any of the members have any questions or comments, we've seen this quite a few times. They went to zoning and they got their relief. So Mark the sewer connection detail is for gravity line whereas the two connections for force mains please revise. What does that mean exactly?

MR. EDSALL: Rather than show a conventional saddle would just be a different type connection, minor detail corrections, I can work those out with Charlie.

MR. ARGENIO: So you're referring just to the connection at the main?

MR. EDSALL: Yes.

MR. ARGENIO: Okay, this is technical.

MR. EDSALL: Minor corrections here.

MR. ARGENIO: I understand.

MR. C. BROWN: Different saddle, huh?

MR. EDSALL: Yes.

MR. ARGENIO: The pump station detail note 5 still refers to, this is verbiage on the plan, is it not?

MR. EDSALL: It's minor, just a correction on the note.

MR. ARGENIO: Dominic, do you have anything on this, any thoughts?

MR. CORDISCO: Well, at this point, Mr. Chairman, we prepared a resolution which would grant both preliminary and financial subdivision approval because it appears that the plans are in close shape for that

purpose. And given the fact that you have closed the public hearing and adopted a negative dec you're in a position to adopt this resolution, the resolution has a number of conditions in it that have to be met prior to the final plat being signed.

MR. ARGENIO: Is there highlights that you want to point out?

MR. CORDISCO: Sure, sure, they are, first of all, of course that all fees that are due to the town have to be paid, that any revisions that are required to the plan even if they're minor have to be made. The other major outstanding item is that there needs to be an offer of dedication submitted to the town for its review and approval and that's for the lands along Lake Road that are going to be dedicated as part of this subdivision.

MR. C. BROWN: We're working with Dan Bloom on that, he's been on vacation, he comes back tomorrow, I dropped off the descriptions to him.

MR. ARGENIO: Charlie, this started on 25 July, 2007.

MR. C. BROWN: I just got the descriptions from the surveyor on Friday so the original surveyor bailed, we had to have a whole new survey done and the survey was completed last month and we got the descriptions on Friday so I didn't have the descriptions.

MR. ARGENIO: So you have those, where are those descriptions now?

MR. C. BROWN: In Dan Bloom's office, I can forward a copy to the town attorney or consultant of the descriptions.

MR. ARGENIO: Any action we take is obviously subject to that.

MR. C. BROWN: Of course.

MR. CORDISCO: Right.

MR. ARGENIO: Certainly seems to me from July 25, 2007 to 25 February, 2008 is ample time to tie that down but--

MR. C. BROWN: Again, when we took on the project survey was supplied to us and we were assured that the survey that, the original survey was going to be done, we contacted him, it took four months to get ahold of him and he said he wouldn't do it, he's getting old I guess, so we had to do a new survey done which was unfortunate for my client, he had to foot the bill.

MR. ARGENIO: And the time it cost your client as well.

MR. CORDISCO: Getting back to the conditions Mr. Chairman is that that document will have to be submitted and approved and then will have to be recorded and proof of recording will have to be provided to the town before the subdivision plat can be signed, the lots themselves won't be created until that step is completed.

MR. C. BROWN: Okay.

MR. ARGENIO: What's that Mark--

MR. CORDISCO: Then the last condition or it's actually not so much a condition but it's an extension is that once you receive final subdivision approval state law requires that the subdivision plat be signed within 360 days of the approval and I put that condition in here so that anyone who reads this makes sure that they know that except I wrote the wrong date and so if on your copy if you would hand write in 2010 instead of 2009.

MR. ARGENIO: Number 5?

MR. CORDISCO: That's correct, it should be February 20 of 2010 so all these conditions have to be met prior to February 20, 2010 or otherwise the approval expires. There can't be any extensions beyond that point without getting into a re-approval and that's a matter of state law.

MR. ARGENIO: Okay, these things that Dominic just described are machinations that somebody else, they're not planning board issues, they're issues that the, the applicant's attorney's going to have to get through and work through and in a lawful fashion with your help or without your help but he's going to have to do that as far as we're concerned or us up here we're looking at the plan. Does anybody else have any comments on this thing? You've seen it four or five times.

MR. GALLAGHER: Highway waiting for curb cuts?

MR. ARGENIO: Only thing on highway Anthony wants to make sure that the sight distance is okay and we'll have that as a subject-to but that's a good point. I'll accept a motion for preliminary and final.

MR. CORDISCO: This is both preliminary and final.

MR. SCHLESINGER: In one motion?

MR. CORDISCO: Yes, to adopt the resolution.

MR. SCHLESINGER: I'll make a motion to give the applicant preliminary and final approval based upon the conditions.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer preliminary and final approval and accept the

resolution granting final approval, this is subject to satisfaction of the highway superintendent for the sight distance and this is subject to also Mark's clean-up issues on his comment page. Mark, is there anything else?

MR. EDSALL: No, it's all set.

MR. ARGENIO: I'll have a roll call.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. C. BROWN: Thank you very much.

MS. STRETCH: Kerri Stretch, I'm with Prudential Rand. The paper that we need to pick up from Mr. Bloom's office has to go to that gentleman.

MR. CORDISCO: You can submit it, it should go through Myra's office at Town Hall, it should go through the planning office here at Town Hall and Myra will make sure everybody gets copies because there's an engineering aspect to it and there's also a legal review to it as well.

REGULAR_ITEMS:__(CONTINUED)

RAY'S_TRANSPORTATION_SITE_PLAN_(09-02)

MR. ARGENIO: Regular items, Ray's Transportation site plan. Is somebody here to represent this? Myra, did they request to be removed from the agenda?

MS. MASON: No.

MR. CORDISCO: Mr. Chairman, I did place a call today to Stewart Rosenwasser who I believe is the attorney for Ray's Transportation and left a message for him to call me back and I did not receive a return call.

MR. ARGENIO: And you called him because?

MR. CORDISCO: I called him to discuss potential DEC issues in regards to their proposed use of the site, we did some research at the suggestion of the board's engineer and it turns out that there is a new state law that went into effect January 1st of 2008 so it's been in effect for just over a year which expressly phases out creosote, the product in New York State, the only exception being that they can continue to be used for railroad and utility purposes but otherwise, the use and the sale of and also the disposal of creosote products has been banned in New York State.

MR. ARGENIO: And Mark, I assume this applicant, this is the guy from Walsh's Road who does something with railroad ties, he buys this many or sells them or trades them or does something with them.

MR. EDSALL: Yes, and we were hoping to have a further clarification of what their proposal was but as you've seen they're not here tonight.

MR. ARGENIO: Myra, if they call to get on the agenda again, let me know, you know, it's appropriate for

somebody to call if they want to be removed because obviously Mark and you do a lot of planning as do I to try to balance these things out.

MR. BABCOCK: They may be taking somebody else's spot.

MR. ARGENIO: Exactly, we spend a lot of time planning these things so we're not overloaded and we're not jammed up so next.

LOUIE'S_AUTO_DRIVING_SCHOOL_(08-10)

MR. ARGENIO: Next is Louie's Auto Driving School on Windsor Highway represented by Mercado. The project proposes the conversion of the existing residential structure into offices occupancies (personal service and rental office). The plan was previously reviewed at the 9 July, 2008 and 15 October, 2009 planning board meetings. Okay, my first question is to Mark, why are they here tonight? I have no fewer than four pages of comments.

MR. EDSALL: They're here to review the plan with the board.

MR. ARGENIO: What's the problem?

MR. BUCCO: From the last time that they were here--my name is Joseph Bucco, I'm the one who did the plans with Jay Klein, we shortened the project up because it was overwhelming, the price was just too high, so what we did was make--

MR. ARGENIO: Mr. Bucco, can I just interrupt you for a second? Did you go to a workshop with Mr. Edsall?

MR. BUCCO: Yes, I did.

MR. ARGENIO: And I assume he gave you corrections at that workshop?

MR. BUCCO: We went to several workshops.

MR. SCHLESINGER: After the planning board meeting obviously you went to a workshop on the first concept?

MR. BUCCO: We had gone.

MR. SCHLESINGER: You said the costs came in a little high and you changed things around, have you had a

workshop since then?

MR. BUCCO: Yes.

MR. ARGENIO: I certainly want to hear what you have to say but I'll tell you that you should get a set of his comment pages.

MR. BABCOCK: He has that.

MR. BUCCO: I just got that now.

MR. ARGENIO: Typically, if I have a plan that has four, if we as this board typically we have four pages of comments we typically don't want to see a plan because at that point we cannot put it out to any other agencies, we cannot put it out to the state, we cannot send it to county because it's just not in a level of fitness that we would like to typically have, the plans need to be more complete and contain the information. But that said, why don't you show us the changes you've made in your scaled back plan and we'll take a look at it.

MR. BUCCO: What we did we shortened up the area of the site that was going to be disturbed because of drainage problems at the corner of this property, Mr. Transmission at the time now I believe it's AAMCO had so what we did was--

MR. ARGENIO: I think you were wise to do that.

MR. BUCCO: Yeah.

MR. ARGENIO: That's a good idea.

MR. BUCCO: What we did was shorten up the additions that we're going to be made on the existing building, existing house which required less parking spaces which required less area of disturbance. Now everything in

the front of the property from 32 nothing has changed from there so whatever comments that were made the second time were already put upon here so the only thing that we did was shorten up the area of disturbance on the site.

MR. ARGENIO: And that would be on which?

MR. BUCCO: Instead of having a retaining wall that went from 32 all the way back to approximately 200 feet we're only coming back maybe 60 feet.

MR. ARGENIO: How would I, oh, I see the wall is on the south side.

MR. BUCCO: It's on the south side, nothing has changed in the front of the building at all and I believe at the last, at the last public hearing that we had it was ready to go out to DOT.

MR. ARGENIO: Is that right, Mark?

MR. EDSALL: There were still things that had to be fixed. The main issue I'm having is I've got a good handle on the site grading, I'm very confident that my desire to have a complete plan to understand the grading and have walls properly called out with elevations, make sure that where you have a curb called out you don't have a 6 foot elevation difference cause we all know that that 30 inch curb doesn't hold up with a 6 foot elevation difference, the DOT imposes a much greater standard than I do so I'm figuring if I don't have enough information the DOT doesn't have enough information.

MR. ARGENIO: Based upon the information provided, there appears to be fill proposed up to or exceeding 12 feet, no information is provided as to the type of fill material or its placement. Where is the 12 foot fill?

MR. BUCCO: It would have been in the back of the back corner, if I may point it out.

MR. ARGENIO: So you're going to put 12 foot of fill?

MR. EDSALL: It's still there, still 12 foot.

MR. ARGENIO: Is that right?

MR. BUCCO: We have to build a retaining wall back there because it's a tremendous drop from the front of the property bordering 32 all the way down.

MR. ARGENIO: Twelve foot of fill in the back of the property, top of wall 22628, what's the bottom?

MR. BUCCO: It would be 12 feet.

MR. ARGENIO: Where is my pointer? Yeah, this is, Mark, he's right, do you guys see what I'm seeing in the back corner of the parking lot way in the corner in the top right-hand side of the parking lot you've got a spot elevation of 22578, plus existing contour of 214, Mr. Bucco, I'm not an engineer but if you're doing a 12 foot fill we're going to need without even looking at Mark's comments we're going to need to see what is the disposition of that slope. Is there a type of wall indicated here?

MR. BUCCO: Not in that corner, no.

MR. ARGENIO: We need to know what you're doing, what kind of wall are you building?

MR. BUCCO: It's going to have to be a poured concrete wall, engineered wall.

MR. ARGENIO: We strongly, strongly discourage the use of the modular block walls with that type of height.

MR. BUCCO: That won't happen, it can't.

MR. ARGENIO: Poured concrete wall is the most expensive wall that you can build.

MR. BUCCO: That's why we actually pulled it back because it would have been higher if we had gone all the way back.

MR. SCHEIBLE: I'm just looking at what he's got right there, the concrete block waste disposal storage.

MR. BUCCO: That's just for the dumpster.

MR. SCHEIBLE: Thank you.

MR. BUCCO: It was at this area here it was closer to the building but being that we shortened the parking area we moved that away from the building to shorten up once again the disturbance of the property.

MR. ARGENIO: Ten inch poured concrete wall with number 7 bar at 72 inches each way, engineering details to be provided prior to the issue of building permits. Now I will say Mark I don't think that we take great exception to that, is that right, that works?

MR. EDSALL: With the block.

MR. ARGENIO: Well, he's going to build a concrete wall that's going to be engineered by somebody else and stamped by somebody else, that's what I'm reading here. Are you reading the same thing? That's not a typical from other types of walls.

MR. EDSALL: No, we've had cases where we've asked for a licensed engineer to design it at the time of--

MR. ARGENIO: There's no question it's got to be a licensed engineer.

MR. EDSALL: But that's just one of many concerns at this point.

MR. ARGENIO: I'm trying to find the light at the end of the tunnel my man, work with me a little bit here.

MR. EDSALL: Well, I will only, it's a very opportune time to say I've been doing my best, I've probably had six work sessions and/or separate project meetings, there's nothing on these comments that has not been discussed in content, not necessarily in detail because I don't review the plans at workshops in the past and I am just having difficulty in getting this so that it's complete.

MR. BABCOCK: Well, Mr. Chairman, reading the comments they're pretty clear, I don't know if you've had these comments.

MR. BUCCO: Just got them right now when you handed them to me.

MR. ARGENIO: Neil is asking me a question here and I want everybody to hear the question, he's saying to me that the plan has changed tremendously and it's driven by budget obviously and I certainly understand that but we had a public hearing but it was based on the other plan. This is almost like a new application but now let me just respond to your comment publicly for the benefit of everyone this is my opinion. The one guy who came and spoke was the guy to the north and his main concern was that he doesn't get flooded. So I think no matter what plan Mr. Bucco brings here, no matter what we have a public hearing on I think the concern is going to be flooding from the downhill neighbor flooding so as long as we're in tune to that and sensitive to that on behalf of the neighbor I think that we're okay, I think. Does that sound reasonable, Mark?

MR. EDSALL: Yes.

MR. GALLAGHER: Now there's a different owner, does that make a difference?

MR. ARGENIO: Where, on the north side?

MR. GALLAGHER: Mr. Transmission is no longer there.

MS. MASON: Same owner.

MR. ARGENIO: So I think we need to be cognizant of that, I think that's the main issue, you know, you have to address Mark's comments, Mr. Bucco, I mean, I certainly don't take exception to the application, you're where you're supposed to be with this type of use, but just my, and I'm not going to read through the comments, you'll read through them and do what you need to do, I mean, with the walls you really need to show contours on both sides of these walls so we know what the grade is doing on the other side of the wall outside of Mr. Mercado's property cause as I just said, we want to be considerate of the neighbor to the north and to be able to look at it and be able to look at the drawing and be considerate of the neighbors to the north we need to know what you're doing with the grade and you're really giving us nothing.

MR. BUCCO: I gave you grade on your property, okay, to make sure the water doesn't go onto his property.

MR. ARGENIO: I can see the grade on your property but what does it do on the other side? Does the grade go straight down and water runs to his building? Is there a swale there?

MR. BUCCO: Right now, the water is going onto his property.

MR. ARGENIO: Well, I don't know that by looking at this.

MR. BUCCO: I'm, what we're doing is stopping the water from going on his property.

MR. EDSALL: That was discussed at the public hearing and that still holds true with this revised layout thereby creating the curb and/or wall along that northerly side, westerly if you look at the north arrow it's creating a dike that contains all the drainage.

MR. ARGENIO: They're sending it underground to the state right-of-way, the neighbor's concern is when it goes into the right-of-way he wants to make sure it stays underground and doesn't flood his driveway.

MR. EDSALL: Hence topo and elevations so that the DOT--

MR. ARGENIO: Is very germane.

MR. SCHEIBLE: That the water doesn't make a u-turn.

MR. ARGENIO: Correct, and we need information. To go through a couple of these things quick, the rear parking area requires 20 foot backout, you only provide 23 feet, the north side of the property has areas noted as curbing adjacent to a 6 foot fill.

MR. BUCCO: What page are you on, sir, just so I can keep up with you?

MR. ARGENIO: I'm not going to go through the whole thing but if you just go to page 2 we'll start with bullet 1, bullet 1 is the top right-hand side of the drawing 12 foot fill, we don't have any information on the proposed contours outside the wall, I see what you're doing there inside the park or I think I do. Are those contours existing or proposed? I assume

they're existing.

MR. BUCCO: The lines are existing, 214 is the lowest part.

MR. ARGENIO: We're going to need proposed on the parking lot.

MR. BUCCO: We have proposed at spot elevations, that's what I was instructed to do.

MR. ARGENIO: I don't have that outside.

MR. BUCCO: On the other side of the wall?

MR. ARGENIO: Yes, I don't have spot elevations. You instructed him to give spot elevations?

MR. EDSALL: I didn't instruct him to do anything. I said I will agree to look at it if there's enough point elevations that I can follow it. But since you bring that up, one of my concerns was the south side of the property where you have a wall, how it's going to interface to the adjoining property I don't have enough information on the south side. I got a top of wall but that doesn't do me a damn bit of good to figure out how that relates to the adjoining property.

MR. ARGENIO: You see that, the wall at the bottom of the drawings?

MR. EDSALL: Again, I have agreed to review it on the basis of point elevations, if there's enough point elevations, I don't have enough yet, I can't make a complete review based on what's on this plan.

MR. ARGENIO: Mark, on the wall that you're referring to, there are no point elevations to the south of the wall.

MR. EDSALL: There is none, there's a top of wall that could be two foot below or ten feet above the grade, I don't know.

MR. ARGENIO: Front sidewalk is noted as 6 foot but it scales to be 7 foot, plan should indicate the proposed additions clarify, one proposed in front or two in the rear. Henry, what was your question about the concrete block waste disposal storage?

MR. SCHEIBLE: I was trying to figure it out, now I know that's got to be a dumpster area.

MR. BUCCO: Yes, that's a trash.

MR. SCHEIBLE: Concrete block was disposal storage.

MR. ARGENIO: Just call it dumpster enclosure, that makes it simple, trash enclosure.

MR. BUCCO: From the wall that we have left over.

MR. ARGENIO: Put the concrete in there. This is where this project should be, you've got to get some of these details on these things cleaned up.

MR. EDSALL: Mr. Bucco, Mr. Klein stamped this plan, I would hope that you would ask him to do a little bit more thorough review before he stamps it the next time.

MR. BUCCO: I don't know what you plan to do.

MR. MERCADO: I don't think there's going to be another meeting. Right now, it's a financial burden so I think this will be the last meeting, I'll probably put up the property for sale, I appreciate your help but--

MR. ARGENIO: Okay, thank you.

MR. BUCCO: I would like to set up a meeting with you

outside of the venue here cause I have, nothing has changed on this property and every time I keep going back to the work session we keep adding things.

MR. ARGENIO: Tell you what you do, give me another 20 minutes.

MR. BUCCO: Thank you.

DAR_REALTY_&_LBR_REALTY_LOT_LINE_CHANGE_(09-11)

MR. ARGENIO: DA Realty & LBR Realty lot line change.

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. ARGENIO: This application proposes revision of lot lines and consolidation of four non-residential lots to two lots. What have you here, Greg?

MR. SHAW: We have four parcels of land, it's the Flannery Animal Hospital and three other parcels as you go down 207 working your way to Washington Lake all of the parcels while they're in two different corporations are owned by the principals of Flannery Animal Hospital, just two different realty corporations, they want to re-shuffle the lot lines.

MR. ARGENIO: How many pieces?

MR. SHAW: Four different parcels.

MR. ARGENIO: Including the existing hospital?

MR. SHAW: Correct. And what they want to do is they just want to take the four lots and combine them into two lots and how we struck the lot line is we took a look at the parking area and felt some day they're going to expand that parking area so we want to make sure we left enough room on the Flannery Animal parcel for the parking lot and that's where we struck the line. And all the other lots on the other side of it heading towards Washington Lake we're combining into one lot. That's it.

MR. ARGENIO: What are the sizes of the two resultant lots?

MR. SHAW: The two resultant lots are going to be 2.64

acres which is the Flannery Animal lot and 2.55 acres for the residual lot.

MR. ARGENIO: What's the zoning in this area?

MR. SHAW: The zoning in that area is R-4, okay, which is residential but in 1998 Flannery Animal Hospital went before the ZBA and got an interpretation that the variance that was granted for Smith Lighting still held the use variance still held for the Flannery Animal Hospital site. So while it's in the R-4 zone, Flannery Animal Hospital had to comply with the requirements of the NC zone which is the only zone which allows a, I won't say kennel cause it's not a kennel, a veterinarian hospital, just a little twist to it but we're complying with respect to the requirements of the NC zone under Flannery Animal Hospital parcel and we're compliant with the bulk requirements of the R-4 zone for the residual piece.

MR. ARGENIO: That was going to be my next question. Dom, Neil just asked me a good question. Are we zoning in our master plan?

MR. SHAW: I can--

MR. ARGENIO: Does it affect this area?

MR. CORDISCO: Not that I'm aware of, I don't think it does but of course as you just already said it's not in effect yet.

MR. SHAW: Just for general information, probably over a year ago I wrote a letter to the master plan committee asking them to consider this parcel for PO, planned office, which is what the parcel is across the street, Pizzo's piece, they took it under consideration. When I read the master plan today on the internet, they're suggesting that this parcel actually from Flannery Animal going to Washington Lake

be a mixed use, that being either residential or selected commercial which I'm hoping that you imply that's going to be an office cause this is a perfect spot for an office building. And that's what the intent really is but we have to play with the cards that we're dealt with which is R-4, all right, and if it does get changed down the road it will allow you the clients to put an office building on it.

MR. SCHLESINGER: Is that that new triangle building that you--

MR. SHAW: Immediately across the street, that's right here.

MR. SCHLESINGER: It wouldn't interfere with the egress?

MR. SHAW: Absolutely not, we're much further down 207 heading towards the City of Newburgh.

MR. SCHEIBLE: You're passed that little meeting spot in the road.

MR. SHAW: So it's a relatively simple application, we're taking four lots combining them into two and our bulk requirements are compliant for both lots.

MR. SCHEIBLE: That looks like it's in the lake.

MR. SHAW: No, that's limits of the DEC wetlands.

MR. GALLAGHER: Is that residence currently occupied?

MR. SHAW: Yes.

MR. ARGENIO: I'm curious who's the occupant of the residence?

MR. SHAW: I do not know.

MR. ARGENIO: It's a tenant?

MR. SHAW: It's a tenant.

MR. SCHEIBLE: That's a rental building.

MR. ARGENIO: How about item number 2 for my contemporaries up here remember we're only talking about a lot line change, not talking about structures or anything of that nature. I'll put Danny right in the hot seat, what do you think about the necessity or not of a public hearing on this?

MR. GALLAGHER: I don't believe we need it.

MR. SCHEIBLE: There are no, the only neighbors are behind it and that's swampy area so I can't see anybody complaining about it too much.

MR. BROWN: I don't see it.

MR. SCHLESINGER: No reason.

MR. ARGENIO: I tend to agree. If anybody else agrees, I'll accept a motion we waive the public hearing.

MR. SCHLESINGER: So moved we waive the public hearing.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board waive the public hearing for the DA Realty and LBR Realty lot line change.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BROWN	AYE

MR. GALLAGHER AYE
MR. SCHLESINGER AYE
MR. ARGENIO AYE

MR. ARGENIO: This has been referred to planning, I would assume, Myra, Orange County Planning?

MS. MASON: Yes, I think it was sent today.

MR. ARGENIO: All right, you're sure or you think?

MS. MASON: I'm not sure.

MR. ARGENIO: Why don't you doublecheck on that, make sure it gets out there, this is pretty straightforward.

MS. MASON: I don't have the referral so I don't know.

MR. ARGENIO: Mark, did you do a referral for Orange County Planning on this?

MR. EDSALL: Yes.

MR. ARGENIO: When did you do it?

MR. EDSALL: Sent it over on January 26th.

MR. ARGENIO: Today's February 25th, I hope it went out.

MS. MASON: January 26th?

MR. EDSALL: Yes.

MS. MASON: I'll check on it because--

MR. ARGENIO: Call me tomorrow, let me know when it went in.

MS. MASON: I will.

MR. CORDISCO: Mr. Chairman, apart from waiving the public hearing without those referrals or without the time lapsing for those referrals, especially the referral to county planning, the board cannot take any further action but you could however authorize preparation of resolutions to be considered at the time when the referral period has lapsed.

MR. ARGENIO: If anybody sees fit, I'll accept a motion that we declare ourselves lead agency under this application.

MR. SCHLESINGER: Motion made.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency for DA Realty and LBR Realty lot line change. Roll call.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: If somebody sees fit, I'll accept a motion we declare negative dec under the SEQRA process.

MR. CORDISCO: Mr. Chairman, it would be premature without the county planning's comments.

MR. ARGENIO: Okay, so we have to wait for county. Am I missing something here?

MR. EDSALL: No, as a matter of fact, this one is

similar in its simplicity to a couple applications I'm thinking back on where you have actually told the applicant that we'd love to dispose of it tonight but we're waiting on the outside agency and unless there's a flag that comes back from county planning you have in the past gone as far as to say we'll put it on the agenda but we don't necessarily expect you to come to listen to us vote. It's clearly that simple that you're just waiting for the clock to expire, you may want to in the interest of saving fuel and contaminating the earth have Greg not come back.

MR. CORDISCO: That will hinge on the county planning.

MR. EDSALL: Cause I don't see anything here relative to the negative dec, they're proposing no development, you're going from four to two lots, obviously, when they develop it there will be an environmental review but there's nothing in the, they're going from four to two lots, quite simple.

MR. ARGENIO: I'm okay with that but I certainly agree with you, we should, I don't know if it's the law or not, we always wait to hear from county before we act and we do not act in a subject-to fashion at least we never have in the past, not that I remember. Are you guys okay with what Mark just outlined?

MR. SCHEIBLE: No problem.

MR. ARGENIO: Thank you, Mr. Shaw.

MR. SHAW: Thank you very much. Good evening.

CORRESPONDENCE

MR. ARGENIO: I have a letter in my hand that I want to read, you guys may or may not have a copy of it, it's to the planning board from Mark Edsall. At the planning board work session on February 4, Mrs. Helen Bunt visited representing the Ariel's Child business located in Oakwood Commercial Center. You guys know where that is over on 94, around the corner with the big stone wall near Cappichione used to be, Mrs. Bunt advised of their desire to occupy the vacant space to the left of their establishment between themselves and Clearwater Pizza, apparently the this open space was previously used for parties or gatherings of small groups by a separate establish/business. Mrs. Bunt is interested in connecting this space to Ariel's Child and to use such space for gatherings or small children's parties as an accessory to their business. Mark says that he consulted with the building department, talked to Lou, one of Mike's guys, Lou actually came to the work session, Lou advised that per Section 303 of the State Code, gatherings of less than 50 children is acceptable as an accessory use to the existing business. There are no outside modifications to the site proposed, this memo's proposed for the record and it's a request that the planning board advise if the formal application will be required or if the matter will be referred to the building inspector's office and the fire inspector's office for final processing with no further planning board action necessary. I don't take issue. Anybody here take issue with it?

MR. GALLAGHER: No.

MR. SCHEIBLE: As long as the building inspector and the fire inspector are involved, I don't see any problem.

MR. BROWN: No problem.

MR. SCHLESINGER: Any other codes?

MR. BABCOCK: We've got to make sure the wall between there and the pizza place is acceptable and they've got the proper exits and the kids can get out.

MR. ARGENIO: And they're not going for, Mark, they're not going to use it to take in additional children and can create partitions and additional classrooms?

MR. EDSALL: No, one of the groups that they have catered to is the Girl Scouts, sometimes they have a hard time finding a place to get ten girls together, they meet there, if they need to buy something they've got Ariel's Child.

MR. BABCOCK: For birthday parties.

MR. ARGENIO: One of my kids had a birthday party there quite a while back.

MR. EDSALL: They're not proposing to put anything to prepare food, this is if they went next door, bought pizza and brought it over and ate it, that's okay.

MR. GALLAGHER: Ariel's Child has a connecting ice cream shop.

MR. ARGENIO: Okay, Mike, do what you need to do with that. Thank you Mark for that. Does anybody have anything else?

DISCUSSION

NEW_CREOSOTE_LAWS

MR. CORDISCO: Just very quickly, I know we touched on Ray's Transportation but in doing my research I did come across the DEC's language about creosote on the new law requirements and I made copies so if any of the board with like to take them I have them here. As it said, it's actually classified as not a possible carcinogen but as a probable carcinogen so it's even higher than in terms of that risk factor.

MR. SCHEIBLE: That doesn't include pressure treated lumber?

MR. CORDISCO: That's different but this new law does not cover that, it's solely creosote which is what you see on telephone poles and railroad ties.

MR. ARGENIO: The pressure treated lumber it's like some kind of steam injection process of arsenic into the wood and it penetrates into the wood. This is that nasty tar stuff and this application is right down near me, if you know, it's the old Stevenson Lumber building and the town has some wells down there behind us and we want to make sure we move in an appropriate and lawful fashion. That's all, Mark. Motion to adjourn?

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHLESINGER	AYE

February 25, 2009

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MR. ARGENIO

AYE

Respectfully Submitted By:

Frances Roth
Stenographer

